

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

JUN 08 2001

TECH CENTER 1600/2900

In re application of)
J.B. Leleu et al.)
Serial No. : 09/160,133) Art Unit: 1623
Filed: September 25, 1998) Examiner: E. WHITE

FOR : MALTITOL CRYSTALS OF PARTICULAR FORMS, CRYSTALLINE
COMPOSITIONS CONTAINING THEM AND PROCESSES FOR THEIR
PREPARATION

DECLARATION UNDER RULE 132

To Honorable Commissioner of Patents and Trademarks
Washington, D.C.

Sir :

I, Jean-Bernard Leleu, of 617 rue du Moulin, 62136
Lestrem, FRANCE, do solemnly declare :

THAT I have been working with the firm ROQUETTE
FRERES since 1977 and that I now hold the position of
Production manager;

THAT I am a named inventor on the present patent
application n° 09/160,133, and that I am fully familiar
therewith;

THAT I have read and understood the Office Action
of February 13, 2001 in connection with the present
patent application;

THAT I am also fully familiar with the inventions
disclosed in Hirao et al. (Carbohydrate Research, 1982),
Devos et al. (US 4,846,139), Kawashima et al. (US
5,583,215), Caboche (US 5,651,829), and Kataura et al.
(EP 741 140);

D

THAT the only description of the shape of maltitol crystals can be found in Hirao et al. (Carbohydrate Research), where the monocrystals prepared in order to carry out X-ray analysis have been described as being prism-like; that no bipyramidal maltitol crystals were observed in such document;

THAT bipyramidal maltitol crystals are not described in Devos et al., though the maltitol syrup contains 87-97.5% maltitol and 2.5-13% maltotriitol; that the described process for the preparation of crystalline maltitol does not in any way deal with the shape of the obtained crystals and the fact that the maltotriitol content is an important parameter which permits determining the shape of the obtained crystals;

THAT no bipyramidal maltitol crystals are observed in Kawashima et al., though the maltitol syrup contains 80-98% maltitol and 1.5-10% maltotriitol and $DP \geq 3$; that the shape of the obtained crystals is not discussed, and that the process described does not identify the maltotriitol content parameter and its consequence on the shape of the obtained crystals;

THAT Caboche does not identify bipyramidal maltitol crystals though the maltitol syrup contains at least 92% maltitol and a low content of other polyols, preferably less than 5%; nor does it describes a process in which the choice of maltotriitol content determines the shape of the obtained maltitol crystals;

THAT Kataura et al. does not comment on the shape of the obtained maltitol crystals either, though the maltitol syrup contains 92-99.9% maltitol and little amounts of DP3 and DP6;

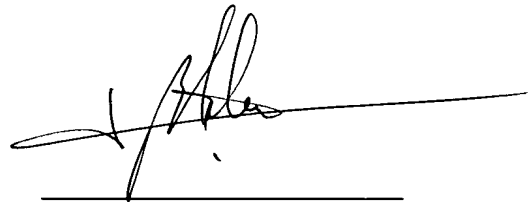
THAT the bipyramidal crystals according to the invention have never been described in the prior art, nor has been described a process in which the choice of

D

maltotriitol content determines the shape of the obtained maltitol crystals;

I, the undersigned, declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and, further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001, of Title 18, of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: July the 29th. 2001.

A handwritten signature in dark ink, appearing to read 'J. B. Leleu', written over a horizontal line.

Jean-Bernard Leleu

D